

**ORDINANCE NO. 2014-59**

ORDINANCE REZONING BLOCK 36B, OF AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FROM THE EXISTING ZONING DISTRICTS OF R-3 (MULTIPLE FAMILY DISTRICT), P (PARKING) AND C-1 (RESTRICTED RETAIL COMMERCIAL) TO C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW FOUR STORIES AND A TOTAL HEIGHT OF 84 FEET TO THE PARAPET LINE OF THE PENTHOUSE, WHERE A MAXIMUM OF THREE STORIES AND A TOTAL HEIGHT OF 40 FEET TO THE PARAPET LINE IS ALLOWED, AND ALLOW A 2 FOOT LANDSCAPE BUFFER ALONG EAST 25 STREET, WHERE A 7-FOOT LANDSCAPE BUFFER IS REQUIRED, CONTRA TO HIALEAH CODE §§ 98-1119 AND 98-2197. **PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST 25 STREET AND EAST 5 AVENUE BOUNDED TO THE NORTH BY EAST 26 STREET AND THE WEST BY EAST 4 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the Applicant proffered to restrict vehicular access from East 26 Street to employees only, eliminate the easternmost drive from East 26 Street on to the

site, and redesign the site plan to provide for all other drives on East 5 Avenue such that all other vehicular traffic has access to the site from East 5 Avenue or East 25 Street only, to which the City accepts; and

**WHEREAS**, the Planning and Zoning Board at its meeting of October 8, 2014 recommended approval of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby rezoned from R-3 (Multiple Family District), P (Parking) and C-1 (Restricted Retail Commercial) to C-2 (Liberal Retail Commercial) and is hereby granted a variance permit to allow four stories and a total building height of 69 feet and 84 feet for the accent towers, where a maximum three stories and a total height of 40 feet to the parapet line are allowed, and to allow a 2-foot landscape buffer along East 25 Street, where a 7-foot landscape buffer is required, contra to Hialeah Code §§ 98-1119 and 98-2197, which provide in pertinent part: "In the C-2 liberal retail commercial district, the maximum height shall be the same as in the C-1 district." (providing that the maximum height shall be three stories or 40 feet to the cornice line or top of parapet at Hialeah Code §98-1074(a)) and "Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual...". Property located at the Northwest corner of the intersection of East 25 Street and East 5 Avenue bounded to the north by East 26 Street and to the west by East 4 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows and in the attached "Exhibit A":

ALL OF BLOCK 36-B, OF THE AMENDED PLAT OF  
THE AMENDED PLAT OF THIRTEENTH ADDITION  
TO HIALEAH, AS RECORDED IN PLAT BOOK 34, AT  
PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.** Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

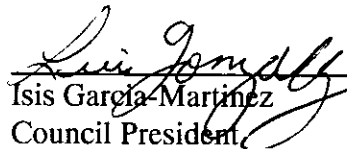
**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 28 day of October, 2014.

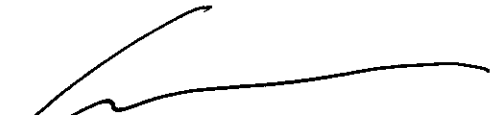
  
Isis Garcia-Martinez  
Council President

Luis Gonzalez-Council Vice President  
For Isis Garcia-Martinez-Council President

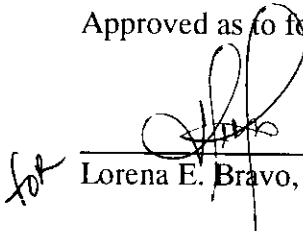
Attest:

Approved on this 7 day of November, 2014.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
for Lorena E. Bravo, Acting City Attorney

Ordinance was adopted by a 5-0-2 vote with Council Members Caragol, Casals-Muñoz, Gonzalez, Hernandez, & Lozano voting "Yes", & Councilmember Garcia-Martinez & Councilwoman Cueva absent.

**“EXHIBIT A”**

**LEGAL DESCRIPTION**

**PARCEL A:**

ALL OF LOTS 1 THROUGH AND INCLUDING 18, IN BLOCK 36-B, OF THE AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**PARCEL B:**

ALL OF LOTS 19 THROUGH AND INCLUDING 26 AND LOTS 28, 29, AND 30, LESS THE SOUTH 15 FEET THEREOF, AND LOT 27, LESS THE SOUTH 10 FEET THEREOF, ALL IN BLOCK 36-B, OF THE AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**PARCEL C:**

ALL OF LOTS 31 THROUGH AND INCLUDING 35, AND LOT 36, LESS THE SOUTH 10 FEET THEREOF, IN BLOCK 36-B, OF THE AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

LESS THAT PORTION OF LOTS 35 AND 36 WHICH LIES WITHIN THE EXTERNAL AREA FORMED BY A 25.00 FOOT RADIUS ARC CONCAVE TO THE NORTHEAST, TANGENT TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 36, AND TANGENT TO THE WEST LINE OF SAID LOT 35, IN BLOCK 36-B, OF THE AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.